

## **September 25, 2008 Minutes of Bigfork Land Use Advisory Committee**

Committee members present: Darrel Coverdell, John Bourquin, Shelley Gonzales, Gary Ridderhoff, Paul Guerrant, Charles Gough, Al Johnson and 32 members of the public.

Chairman Gonzales called the meeting to order at 4: 03 pm.

The Agenda was adopted as amended (m/sc Gough/Coverdell).

The minutes for August 28, 2008 were approved as corrected. (m/sc Gough/Ridderhoff)

Chairman Gonzales read the “ground rules” of BLUAC meetings.

### **ADMINISTRATOR’S REPORT:**

**A. Sign-in Sheet:** Reminder to the public of the availability of BLUAC minutes through email and BSC website [bigforksteering.org/](http://bigforksteering.org/).

**B. Application status:** The Flathead County Planning Board voted 6-2 to approve the Hunter/Ogren zone change.

**C.** Secretary Hanson reminded the committee that normal meetings dates in November and December would fall on Thanksgiving and Christmas respectively. Hanson was requested to contact Bethany Lutheran for alternative dates.

### **APPLICATIONS:**

**A.** A request by Naader Shagagi, for a Conditional Use Permit to construct four guest cabins and operate a Christian Mysticism Center (retreat center) within the Bigfork, AG-20 (Agricultural) Zoning District. The property is located at 199 Drew Lane and contains approximately 10 acres.

**Staff:** George Smith described the property: The site is located east side of MT HWY 83 on Drew Lane, an extension of Julian Lane, and consists of approximately eight and one-half (8.5) acres. The property is legally described as Tract 2F in Section 36, Township 27, North, Range 19 West, P.M.M., Flathead County, Montana.

The applicant intends to establish a non-denominational Christian religious-retreat center in the Bigfork Zoning District (82). The Retreat Center would host Christian studies and meditation learning retreats, in a rustic environment. Facilities will be available for individual, family, church sponsored and group learning and meditation practice experiences. Structures on the site include an owner’s residence, a family-use guest house, a garage/shop and outdoor children's play structure. A gathering hall/study and meditation center is under construction. Four rustic cabins are proposed for participants use only, not as cabin rental units.

The subject property is zoned AG-20 Agricultural, and is subject to FCZR Section 3.06. A Camp or Retreat Center is addressed as a conditional use per Flathead County Zoning Regulations Section 3.06.030 (5). Notification to adjacent property owners mailed on September 15, 2008. There are 12 conditions recommended. We are recommending approval for this application with all conditions.

**Guerrant:** What dust abatement applications are acceptable to Flathead County? Is it only one residence you are concerned about?

**Staff:** Chemicals, oil and paving. Water is not appropriate. Yes, only one residence.

**Coverdell:** Is Julian a private road? Who has jurisdiction over the conditions?

**Staff:** Julian is a private road. Flathead County has jurisdiction.

**Guerrant:** Has the Ferndale Fire Department been contacted about appropriate safety access?

**Staff:** No. We have deemed access to be appropriate.

**Gonzales:** Explain “subdivision by lease or rent”

**Staff:** This is used when someone establishes a multi-family campground, etc. It puts the application under the subdivision process but does not require dividing into lots.

**Johnson:** 1) Why no mention of how sewage is handled? 2) Will they need to put in a new septic system? 3) When you say no impact to wildlife is that due to the lack of fences?

**Staff:** 1) They will have to comply with permits through DEQ and the Flathead Co. Health Dept. 2) Our office does not determine those requirements. 3) FWP makes that determination.

**Gonzales:** Isn't there an error on the application (referring to Somers)?

**Staff:** Yes. The GIS Department made the error. We sent a notification on the 18<sup>th</sup> to correct the error.

**Bourquin:** What is the normal time frame?

**Staff:** One week.

**Gough:** What are the standards for Subdivision for lease or rent?

**Staff:** That designation triggers the process of subdivision regulation.

**Bourquin:** 1) It appears they have already started construction? 2) The section at Julian and Drew seem extremely narrow for Fire and Emergency vehicles. 3) Private roads often have easements and restrictions. Are there any restrictions here?

**Staff:** Correct. 1) The structure can also be used as a storage barn. 2) The road is acceptable for residential use. 3) Not that we are aware of.

**Johnson:** Will this be a commercial operation?

**Staff:** The applicant does not intend to charge but will ask for donations.

**Ridderhoff:** 1) What is the capacity of the cabins? 2) What happens if the Subdivision for Lease or Rent is turned down?

**Staff:** 1) Cabins are for two people. 2) The Conditional Use Permit is denied.

**Gonzales:** Since this is a quasi-church, do they need a license?

**Staff:** No license for a church.

**APPLICANT:** Mr. Shagagi had nothing to add.

**Gonzales:** You will be including only family and friends?

**Shagagi:** Yes, and everyone in Bigfork is welcome.

**Gonzales:** Is there any Public Agency comment? None

**Public Comment:**

**Cheryl Palmer:** I did speak to the Assistant Fire Chief at the Ferndale Fire Department. I was told they are very concerned about the width of the road and the dead end. The width is okay for 7 to 8 residents but not for 25 to 50 cars.

**Cliff Palmer:** We own 20 acres near them (the applicant property). It is a private road for residents only. This could have a dramatic effect. Are there any conditions restricting this to a “quiet activity” and how many people would be there at a time? I’m also concerned about the road width on Drew. There’s about 600’ where it is very narrow. I’m also concerned about dust abatement. Dust is a problem in this area.

**Gonzales:** Do the homeowners have a road agreement?

**C. Palmer:** Yes, and we do not want increased upkeep of the road.

**Craig Stoddard:** We own property to the east and have concerns. This is an incredible coincidence that our application would be presented at the same time. This may affect my application. I’m also concerned that the uses are beyond friends and family.

**Sam Porrovecchio:** Who is going to enforce the conditions? My experience is that the County is too busy to enforce regulations.

**Johnson:** Is there a limit to the number of people allowed at a time?

**Shagagi:** We have requested up to 20 people on a seasonal basis.

**Staff:** The road width, based on the volume does not seem to be a problem. None of the traffic areas are close to dwellings. I don’t see a dust problem. The traffic volume didn’t appear to be too high. On a private road, the property owners usually work out an agreement on maintenance.

**Johnson:** Have the Sheriff’s Department or Emergency Services commented on this?

**Staff:** No

**Bourquin:** What is the road agreement with the homeowners?

**Shagagi:** Everyone does their own maintenance. I know of no group agreement.

**BLUAC;**

**Gough:** I have a concern of how many people will participate at a time. The cabins are 16’ x 20’, which is large for only two people.

**Shagagi:** The four cabins are for two people only.

**Johnson:** If you are going to have 20 people, with two to a cabin, where is the remainder going to stay? I’m most concerned about the ability of emergency services to safely access this road.

**Gonzales:** Nothing is conditioned for time of usage and I would like to see a condition such as between the hours of 7:00 a.m. to 10:00 p.m. I would like to see some condition to quiet activity.

**Johnson:** If they want to have people spend the night, setting a time condition would not be appropriate.

**Bourquin:** Can anyone tell me how the road agreement works at present?

**Craig Stoddard:** Rodney Wolf and I volunteer to plow the road. We have the road graded one to two times a year and each property owner pays for the grading.

**Gonzales:** Who will respond to violations?

**Staff:** We (FC Planning Office) respond as well as possible although we do not monitor conditions. The Planning Office only responds to complaints.

**Johnson:** There is nothing in the application stating how long events last. Do they last 2 days, 2 weeks?

**Gonzales:** Will you be fulltime residents?

**Shagagi:** Yes

**Coverdell** moved to recommend approval of the application with all conditions listed in the staff report. Guerrant seconded the motion.

**Bourquin:** I would move to amend the motion and add the following conditions:

1. Obtain written approval of the Ferndale Fire Chief, with consideration of the present width of Drew Lane, and that the applicant provide a turn-around and an alternative fire exit from the property.
2. The private road (Drew Lane) be widened to Flathead County standards to the applicant driveway entrance and alternate fire exit.

**Gough:** Second the motion.

**Johnson:** I would move to amend the motion and add the following condition:

1. The Ferndale Fire Chief provide a finding that the road, with modification of road width, will safely allow fire and emergency medical services.

**Gonzales:** Second the motion.

**Bourquin:** I will withdraw the first condition of my motion and move we amend the original motion with the addition of the two remaining conditions. Johnson seconded the motion. Motion passed 4 to 3 with Johnson, Gough and Gonzales voting against.

The application will be heard by the Flathead County Board of Adjustment at the Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, on October 7, 2008, at 6:00 p.m.

Notation: Cheryl Palmer was asked numerous times during the meeting to curb her outbursts.

Gonzales called a 5-minute break in proceedings.

**B.** A request by Craig and Dana Stoddard, for a Conditional Use Permit to operate a retreat center (yoga, art and nature camp) on their property within the Bigfork, AG-20 (Agricultural) Zoning District. The property is located at 500 Wild Swan Trail.

**Staff:** George Smith described the application as follows:

The site is located on the east side of MT HWY 83 at the end of Wild Swan Trail, an extension of Julian Lane, and consists of approximately twenty (19.8) acres. The property is legally described as Tract 2AA in Section 36, Township 27, North, Range 19 West, P.M.M., Flathead County, Montana. County records indicate that the property is owned by Craig R. and Dana S. Stoddard.

The applicant intends to establish a retreat center with an emphasis on child development, in the Bigfork Zoning District (82). The retreat center would host yoga and fine art learning retreats, in a primarily outdoor environment. Facilities will be available for individual, family, school sponsored and group learning and yoga practice experiences.

Structures on the site include an owner's residence, a family-use guest house, an artist's studio and outdoor landscaped gathering, areas.

The property is currently used as a residence, and has hosted small group yoga classes and seasonal group events which exceed the allowances for a Home Occupation as described in Section 7.09.020 in the Flathead County Zoning Regulations.

The subject property is zoned AG-20 Agricultural, and is subject to FCZR Section 3.06. A Camp

or Retreat Center is addressed as a conditional use per Flathead County Zoning Regulations Section 3.06.030 (5).

A notice of public hearing was mailed to property owners within 150 feet of the subject property approximately 15 days prior to the hearing and the required legal notice ran in the *Daily Inter Lake*. At the writing of the staff report, this office has received 37 comments in support of this application. Interested persons impacted by this decision may attend the hearing on October 07, 2008 and offer additional comments for consideration by the Flathead County Board of Adjustment.

The FC Planning Office recommends approval of the application.

**Applicant:** Craig Stoddard made photos of the property and activities available to the committee. He noted his family has lived on the property for 18 years. The Yoga studio they opened in Bigfork 5 years ago proved unprofitable. We moved the studio to our property to hold classes two times a week, in compliance with the regulations for a home operated business. The summer kids camp, to be held twice a year, is the reason for the application. We have no plans to increase the business. I would be happy to work on the road width and dust abatement.

**Dana Stoddard:** I received a grant to run a camp for special needs children. I feel the change to our property was meant to be and am gratified to have children to work with.

**Guerrant:** What's the duration of the camp?

**Stoddard:** It's a day camp. We provide a bus service to limit the dust problem.

**Coverdell:** Where do the kids come from?

**Stoddard:** Mostly from the Bigfork community but some from all over the world.

**Bourquin:** Are you willing to do dust abatement?

**Stoddard:** We'll do anything we have to do for dust abatement.

**Ridderhoff:** What are your hours of operation?

**Stoddard:** Hours are 9am to 3pm with one evening session from 6 to 7:45 per camp.

**Johnson:** 1) Will you continue to use the bus? 2) Do you sell merchandise? 3) How many kids? 4) How many sessions? 5) Do you hire staff?

**Stoddard:** 1) That will be standard. 2) We sell yoga supplies. 3) 30 children. 4) Two sessions a summer with the possibility of one more for special needs children. 5) No paid staff. We are helped by parents and volunteers.

**Gonzales:** Is there any Public Agency comment? None

#### **Public Comment:**

**Clif Palmer:** We own property next to Stoddards and are concerned about expansion. She has weekly classes, monthly seminars and weekend workshops. Yoga camp creates a lot of activity and I'm concerned she may expand the camp to three weeks.

**Cheryl Palmer:** I have a copy of a police report about chanting and noise. I check my horses every day and hear a lot of noise. I object to the camp. The yoga classes are quiet but the camps and their toxic noise destroys my peace of mind.

**Jessica Beasley:** We owned 40 acres for 8 years in the area and would like to know, in your experience, if Conditional Uses positively or negatively affect property values.

**Gonzales:** The affect on property values is outside the area of the committee's expertise.

**Karen Lail:** I support the Stoddards and the application. I have helped with the camps.

**Casey Palmer:** There is no one to enforce conditions. It gives them free reign.

**Sam Porrovecchio:** The dust problem goes beyond Drew Lane. The two homes on my property receive a lot of dust.

**Shagagi:** I approve of what the Stoddards have done. This is in harmony with the environment.

**David Feffer:** Spoke in favor of the application. He spent a day at the camp and was impressed by the way it was run. Thinks it is positive for the community and adds to culture in the community.

**Jennifer Wright:** Spoke in favor of the application.

**Tomas Reifers:** I am a therapist in the community and have referred children to the classes. It is a positive learning environment.

**Sam Porrovecchio:** I think you have to consider the whole neighborhood.

**Rhonda Ploot:** Spoke in support of the application. This is a wonderful area for children to go to a camp. There is limited access in our community for children to enjoy the outdoors.

**Staff:** I don't see this as a noise generating activity. I've observed yoga and have not heard much noise. There is no noise ordinance in Flathead County. The Stoddards are in compliance with the exception of the two week special events.

**Stoddard:** The 911 call was not related to us. They woke us up that night. How can you call noise from children toxic? Palmers don't even live there. I can't see how it is a problem. I will do whatever is needed for dust abatement and road widening.

#### **BLUAC:**

**Guerrant:** I would favor a condition regarding dust abatement and the use of a bus for the camp.

**Johnson:** The negative impacts are already conditioned by hours of operation. Do we think sessions should be limited? I have the same concerns regarding Fire and Emergency access and road width as I did with the former application.

**Stoddard:** There are three weeks between sessions. Most of the activity is quiet with the exception of short play sessions where there might be some child noises.

**Ridderhoff:** I agree with Al's concerns regarding Fire and Emergency safety, especially with kids.

**Johnson** moved to recommend approval of the application with all conditions in the staff report and add the following additional conditions.

1. The road be widened on Drew Lane from the Shagagi property to the Stoddard property to Flathead County road standards.
2. The Ferndale Fire Chief provide a finding that the road, with modification of road width, will safely allow fire and emergency medical services.
3. The camp sessions be limited to three sessions per year during the months of June through August.
4. Amend condition #9 to include Julian Lane at Hwy 83 to 300 ft and 300 ft prior to Drew Lane.

**Bourquin** seconded the motion.

Motion was passed unanimously.

The application will be heard by the Flathead County Board of Adjustment at the Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, on October 7, 2008, at 6:00 p.m.

#### **OLD BUSINESS:**

**A. Compression Brake Sign:** Craig Wagner reported he is waiting to hear from Commissioner Brenneman.

**B. Meetings with County P & Z Chair, Vice-chair and Commissioner:** Gonzales has heard from the Planning Board Chairman and details are still in the process.

**C. Bigfork Neighborhood Plan/Planning Board Workshop:** To be scheduled after the Commissioner action on the text amendment.

**NEW BUSINESS:**

**A. Lee Road/Septic Dumping:** This is a county-wide problem and a question of oversight. A \$100,000 grant has been written by Joe Brenneman and presented to the Department of Natural Resources requesting that a waste water management group be created represented by tribal groups, Lake and Flathead counties and Bigfork. This “stakeholder group” would analyze wastewater needs and where the new facility would be needed. Committee members suggested there is an opportunity for a business to turn septic sludge into a “product” which would make sense, much more sense than “not in my backyard”.

**B. County Attorney re: Sign Violations:** George Smith provided copies of a letter from the Flathead County Planning & Zoning Department to Grizzly Jacks, Veterans Center and Forkin’s Echo Lake Store notifying them of their sign violations. He reported that the letter gives them 15 days to correct the violation. Smith checked all three businesses and noted the violations still exist. The violations will now be turned over to the Flathead County Attorney’s Office for action.

Chairman Gonzales moved to request the Bigfork Eagle run a “Tip of the Hat” to the Little Brown Church recognizing the new sign constructed to replace the sign that was in violation of sign regulations. Johnson seconded the motion. Motion passed unanimously. Secretary Hanson was requested to take a photograph for the newspaper.

**PUBLIC COMMENT:**

**Ted Schlegel:** A realtor Big Sky Properties and representing Flathead Industries. They are interested in selling their property in Bigfork which is zoned R-1. He wanted BLUAC to be aware that they have started the process for a zone change to B-3. The building has been non-conforming business for many years and is bordered on all sides by other businesses and the Bigfork Fire Department.

Meeting was adjourned at 7:30 p.m.

Sue Hanson  
BLUAC Secretary

